

**ASSEMBLY BILL**

**No. 771**

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**Introduced by Assembly Members Torres and De Leon**

February 26, 2009

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An act to amend Sections 779, 779.2, 779.5, 10009.6, and 10010 of the Public Utilities Code, relating to residential utility services.

LEGISLATIVE COUNSEL'S DIGEST

AB 771, as introduced, Torres. Public utilities: residential utility services.

(1) Existing law prohibits a municipally owned or operated public utility (publicly owned utility) furnishing light, water, power, or heat, or an electrical, gas, heat, or water corporation, (corporation) from terminating residential service for nonpayment of a delinquent account in specified situations, including on the certification of a licensed physician and surgeon that to do so will be life threatening to the customer and the customer is financially unable to pay for service within the normal payment period and willing to enter into an amortization agreement with the publicly owned utility or corporation with respect to all charges that the customer is unable to pay prior to delinquency. Existing law permits a customer meeting these requirements to amortize the unpaid balance of a bill over a period not exceeding 12 months.

This bill would increase the maximum amortization period to 18 months.

(2) Existing law prohibits an electrical, gas, heat, telephone, or water corporation from terminating residential service for nonpayment of any delinquent account or other indebtedness owned by the customer or subscriber to any other person or corporation or when the obligation represented by the delinquent account or other indebtedness was incurred

with a person or corporation other than the corporation demanding payment for it. The act exempts from this prohibition a utility that collects sanitation or sewerage charges for a public agency, as specified.

This bill would delete that exemption.

(3) Existing law requires a decision of an electrical, gas, heat, telephone, or water corporation to require a new residential applicant to deposit a sum of money with that corporation prior to furnishing service to be based solely upon the creditworthiness of the applicant, as determined by the corporation.

This bill would prohibit those corporations from seeking to recover charges or penalties, in connection with furnishing services to a tenant of the owner of the residential property to which services were provided, from any subsequent tenant or the property owner. The bill also would prohibit those corporations from demanding or receiving a security deposit in an amount that is more than 2 times the estimated average periodic bill or 3 times the estimated average monthly bill for the provision of services and would prohibit those corporations from imposing a reconnection charge for terminated service if the customer provides that security deposit.

(4) Existing law requires the decision of a publicly owned utility to require a new residential applicant to deposit a sum of money with the publicly owned utility prior to furnishing service to be based solely upon the creditworthiness of the applicant, as determined by the public utility. Existing law limits the amount of money that a publicly owned utility may demand or receive from a customer as security for the provision of services.

This bill would prohibit a publicly owned utility from demanding or receiving a charge for reconnecting service terminated for nonpayment if the customer posts that security.

By imposing new duties on publicly owned utilities, this bill would impose a state-mandated local program.

(5) Under existing law, a violation of any provision of the Public Utilities Act or of any rules or orders issued under the act, is a crime.

By imposing new requirements under the act, the violation of which is a crime, this bill would impose a state-mandated local program.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. The Legislature finds all of the following:
- 2     (a) The United States and California are facing an unprecedented
- 3     economic crisis that includes an unemployment rate of 9.5 percent
- 4     in California, numerous home foreclosures, a credit crisis, and
- 5     stagnant or declining wages and incomes for California workers.
- 6     (b) The economic crisis, unemployment, and home foreclosures
- 7     are destabilizing communities across California. Preserving
- 8     community stability and avoiding homelessness are essential
- 9     elements in California's response to the economic crisis.
- 10    (c) Preserving essential services for California residents is an
- 11    important element in maintaining community stability and
- 12    preventing homelessness, family crisis, and resulting social ills.
- 13    (d) Temporary measures to assist distressed homeowners and
- 14    renters in paying their utility bills and preventing loss of services
- 15    are needed as an element of California's response to the economic
- 16    crisis.
- 17    (e) Providers of essential services, such as electricity, gas, water,
- 18    and sewer services, have programs, procedures, and cash flows
- 19    that can be used to assist their customers in maintaining their
- 20    services.
- 21    (f) Providers of essential services, including both investor owned
- 22    utilities and publicly owned utilities, should have predictable
- 23    practices and procedures for assisting residential customers in
- 24    preserving their services, including augmenting their staffs to assist
- 25    customers with service difficulties and payment problems.
- 26    (g) Public and regulatory practices and policies should balance
- 27    customers' needs for assistance during the economic crisis with
- 28    the need to preserve the financial viability of utilities, as providers
- 29    of essential services to the public as a whole.
- 30    SEC. 2. The Legislature declares all of the following:

1 (a) It is the policy of the State of California that the essential  
2 services of heat, light, electricity, water, and sewer services be  
3 maintained on affordable terms for all residents of California during  
4 the economic crisis.

5 (b) It is the intent of the Legislature that all providers of electric,  
6 gas, water, and sewer service use all reasonable means to preserve  
7 continuity of those services to their residential customers and that  
8 they review their practices and procedures to determine how best  
9 to achieve continuity of service. The review should include  
10 practices and procedures relating to shutoffs, reconnection  
11 procedures and charges, deposits and credit, management of  
12 arrearages, late charges, and enrollment in the CARE Program and  
13 other comparable programs.

14 (c) It is the intent of the Legislature that the substantive measures  
15 contained in this act should be in effect for a limited period to  
16 correspond to the duration of the economic crisis facing California  
17 and the nation, not to exceed three years.

18 SEC. 3. Section 779 of the Public Utilities Code is amended  
19 to read:

20 779. (a) ~~No~~An electrical, gas, heat, or water corporation ~~may~~  
21 *shall not* terminate residential service for nonpayment of a  
22 delinquent account unless the corporation first gives notice of the  
23 delinquency and impending termination, as provided in Section  
24 779.1.

25 (b) ~~No~~An electrical, gas, heat, or water corporation ~~may~~ *shall*  
26 *not* terminate residential service for nonpayment in any of the  
27 following situations:

28 (1) During the pendency of an investigation by the corporation  
29 of a customer or subscriber dispute or complaint.

30 (2) When a customer has been granted an extension of the period  
31 for payment of a bill.

32 (3) On the certification of a licensed physician and surgeon that  
33 to do so will be life threatening to the customer and the customer  
34 is financially unable to pay for service within the normal payment  
35 period and is willing to enter into an amortization agreement with  
36 the corporation pursuant to subdivision (e) with respect to all  
37 charges that the customer is unable to pay prior to delinquency.

38 (c) Any residential customer who has initiated a complaint or  
39 requested an investigation within five days of receiving the  
40 disputed bill, or who has, before termination of service, made a

request for extension of the payment period of a bill asserted to be beyond the means of the customer to pay in full within the normal period for payment, shall be given an opportunity for review of the complaint, investigation, or request by a review manager of the corporation. The review shall include consideration of whether the customer shall be permitted to amortize any unpaid balance of the delinquent account over a reasonable period of time, not to exceed 12 months. ~~No~~ A termination of service shall *not* be effected for any customer complying with an amortization agreement, if the customer also keeps the account current as charges accrue in each subsequent billing period.

(d) Any customer whose complaint or request for an investigation pursuant to subdivision (c) has resulted in an adverse determination by the corporation may appeal the determination to the commission. Any subsequent appeal of the dispute or complaint to the commission is not subject to this section.

(e) Any customer meeting the requirements of paragraph (3) of subdivision (b) shall, upon request, be permitted to amortize, over a period not to exceed ~~12~~ 18 months, the unpaid balance of any bill asserted to be beyond the means of the customer to pay within the normal period for payment.

SEC. 4. Section 779.2 of the Public Utilities Code is amended to read:

779.2. (a) ~~No~~ *An* electrical, gas, heat, telephone, or water corporation ~~may~~ *shall not* terminate residential service for nonpayment of any delinquent account or other indebtedness owed by the customer or subscriber to any other person or corporation or when the obligation represented by the delinquent account or other indebtedness was incurred with a person or corporation other than the electrical, gas, heat, telephone, or water corporation demanding payment ~~therefor~~ *for that delinquent account or other indebtedness*.

(b) Subdivision (a) does not apply to a telephone corporation operating within service areas which furnishes billing services to the subscribers of a telephone corporation operating between service areas pursuant to tariffs on file with the commission providing for the furnishing of those billing services. The commission shall require that these tariffs also provide for adequate subscriber notice, review, and appeal procedures prior to any termination of service for nonpayment of a delinquent account.

~~(e) Subdivision (a) does not apply to any privately owned or publicly owned public utility which collects sanitation or sewerage charges for a public agency pursuant to agreement under Section 54346.2 of the Government Code or Section 5472.5 of the Health and Safety Code.~~

SEC. 5. Section 779.5 of the Public Utilities Code is amended to read:

779.5. (a) The decision of an electrical, gas, heat, telephone, or water corporation to require a new residential applicant to deposit a sum of money with the corporation prior to establishing an account and furnishing service shall be based solely upon the credit worthiness of the applicant as determined by the corporation.

(b) (1) *An electrical, gas, heat, telephone, or water corporation furnishing services for residential use to a tenant under an account established by the tenant shall not seek to recover any charges or penalties for the furnishing of services to, or for the tenant's residential use from, any subsequent tenant or the property owner due to nonpayment of charges by a previous tenant.*

(2) *For purposes of this subdivision, the term "subsequent tenant" does not include any adult person who lived at the residence during the period that the charges or penalties accrued.*

(c) (1) *A corporation subject to this section shall not demand or receive security in an amount that exceeds twice the estimated average periodic bill or three times the estimated average monthly bill.*

(2) *A corporation subject to this section shall not demand or receive a charge for reconnecting service terminated for nonpayment if the customer posts a security identified in paragraph (1).*

SEC. 6. Section 10009.6 of the Public Utilities Code is amended to read:

10009.6. (a) The decision of a public utility to require a new residential applicant to deposit a sum of money with the public utility prior to establishing an account and furnishing service shall be based solely upon the creditworthiness of the applicant as determined by the public utility.

(b) ~~No~~ *A municipal corporation owning or operating a public utility furnishing services for residential use to a tenant under an account established by the tenant shall not seek to recover any charges or penalties for the furnishing of services to, or for the*

tenant's residential use from, any subsequent tenant or the property owner due to nonpayment of charges by a previous tenant. For this purpose, the term "subsequent tenant" shall not include any adult person who lived at the residence during the period that the charges or penalties accrued. The municipal corporation may collect a deposit from the tenant service applicant prior to establishing an account for the tenant. The municipal corporation ~~may~~ shall not require that service to subsequent tenants be furnished on the account of the landlord or property owner unless the property owner voluntarily agrees to that requirement, nor may the municipal corporation refuse to furnish services to a tenant in the tenant's name based upon the nonpayment of charges by a previous tenant.

(c) (1) A public utility subject to this section ~~may~~ shall not demand or receive security in an amount that exceeds twice the estimated average periodic bill or three times the estimated average monthly bill.

(2) A public utility subject to this section shall not demand or receive a charge for reconnecting service terminated for nonpayment if the customer posts the security identified in paragraph (1).

(d) In the event of tenant nonpayment of all or a portion of the bill, the deposit shall be applied to the final bill issued when service is terminated.

(e) This section shall not apply to master-metered apartment buildings.

SEC. 7. Section 10010 of the Public Utilities Code is amended to read:

10010. (a) ~~No~~ A public utility furnishing light, water, power, or heat ~~may~~ shall not terminate residential service for nonpayment of a delinquent account unless the public utility first gives notice of the delinquency and impending termination, as provided in Section 10010.1.

(b) ~~No~~ A public utility shall not terminate residential service for nonpayment in any of the following situations:

(1) During the pendency of an investigation by the public utility of a customer dispute or complaint.

(2) When a customer has been granted an extension of the period for payment of a bill.

(3) On the certification of a licensed physician and surgeon that to do so will be life threatening to the customer and the customer is financially unable to pay for service within the normal payment period and is willing to enter into an amortization agreement with the public utility pursuant to subdivision (e) with respect to all charges that the customer is unable to pay prior to delinquency.

(c) Any residential customer who has initiated a complaint or requested an investigation within five days of receiving the disputed bill, or who has, within 13 days of mailing of the notice required by subdivision (a), made a request for extension of the payment period of a bill asserted to be beyond the means of the customer to pay in full during the normal period for payment, shall be given an opportunity for review of the complaint, investigation, or request by a review manager of the public utility. The review shall include consideration of whether the customer shall be permitted to amortize the unpaid balance of the account over a reasonable period of time, not to exceed 12 months. ~~No~~—A termination of service shall *not* be effected for any customer complying with the amortization agreement, if the customer also keeps the account current as charges accrue in each subsequent billing period.

(d) Any customer whose complaint or request for an investigation pursuant to subdivision (c) has resulted in an adverse determination by the public utility may appeal the determination to the governing body of the municipal corporation. Any subsequent appeal of the dispute or complaint to the governing body is not subject to this section.

(e) Any customer meeting the requirements of paragraph (3) of subdivision (b) shall, upon request, be permitted to amortize, over a period not to exceed ~~12~~ 18 months, the unpaid balance of any bill asserted to be beyond the means of the customer to pay within the normal period for payment.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the



1 meaning of Section 6 of Article XIII B of the California  
2 Constitution.

3 However, if the Commission on State Mandates determines that  
4 this act contains other costs mandated by the state, reimbursement  
5 to local agencies and school districts for those costs shall be made  
6 pursuant to Part 7 (commencing with Section 17500) of Division  
7 4 of Title 2 of the Government Code.

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